



## COMMUNITY DEVELOPMENT

## DEPARTMENT

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### PLANNING COMMISSION MEETING MINUTES

#### REGULAR MEETING

DECEMBER 14, 2004

PRESENT: Acevedo, Benich, Escobar, Lyle, Mueller, Weston

ABSENT: Engles

LATE: None

STAFF: Planning Manager (PM) Rowe, Senior Planner (SP) Linder, Associate Planner (AP) Plambaeck, and Minutes Clerk Johnson

Chair Weston called the meeting to order at 7:02 p.m., and led the flag salute.

#### DECLARATION OF POSTING OF AGENDA

Minutes Clerk Johnson certified that the meeting's agenda was duly noticed and posted in accordance with Government Code Section 54954.2.

#### OPPORTUNITY FOR PUBLIC COMMENT

Chair Weston opened the public hearing.

Observing that there were no members of the public indicating a wish to address the Commissioners on items not appearing on the agenda, Chair Weston closed the opportunity for public comment.

#### MINUTES

NOVEMBER 30,  
2004

COMMISSIONERS MUELLER/ACEVEDO MOTIONED TO APPROVE THE NOVEMBER 30, 2004 MINUTES, WITH THE FOLLOWING MODIFICATIONS:

Page 1, last paragraph: ~~was were~~

Page 5, paragraph 4: Vice-Chair Lyle pointed out that the allocations are for FY 2005-06 and a determination would have to be made as to moving the allotments through the years and recommended that 2 units be moved from some project's 2006/07 allocation to 2005/06, thus freeing up 2 additional allotments to be awarded in the current competition for 2006/07.

Page 7, second bullet: differences in income levels between Santa Cruz (~~which is lower~~ \$78,200 for a family of 4) and ~~Morgan Hill~~ Santa Clara Counties (Santa Clara: \$106,100 for a family of 4)

Page 8, line 3: people don't ~~not~~ hang out

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**Page 8, fifth bullet (add at end): difficulty of planning turn lanes to the project area  
from Monterey**

**THE MOTION CARRIED WITH THE FOLLOWING VOTE: AYES: ACEVEDO, BENICH, ESCOBAR, LYLE, MUELLER; NOES: NONE; ABSTAIN: WESTON; ABSENT: ENGLÉS.**

**NEW BUSINESS:**

**1) ZA-04-10/  
GPA-04-04:  
MONTEREY-  
MORGAN HILL  
MEDICAL**

A request to amend the general plan land use designation and zoning designation on a 2.9 acre parcel located on the west side of Monterey Rd., 350 ft. north of Cosmo Ave. The current land use designation is non-retail commercial with a CO, Commercial Office zoning designation. The request is to change the General Plan land use designation to Commercial and the zoning designation to General Commercial, CG.

SP Linder reported that the 2001 General Plan indicates that the City will limit commercial development to main arterials. The current request to change the zoning and general plan conflicts with the Policies in the 2001 General Plan, she said. SP Linder recalled with the Commissioners that the 2001 General Plan Task Force, in agreement with the City Council, tried to focus office /commercial uses away from intersections; saying instead that the City should concentrate retail uses on Monterey and Dunne Avenues. In doing so, she explained, the Council designated properties south of San Pedro to north of Tennant with the adoption of the 2001 General Plan, and this property has a non-commercial/non retail designation. SP Linder called attention to:

General Plan goals 9b - Ensure the viability of downtown and other recognized shopping areas, and discourage isolated and sprawling commercial activities along major roads and 9c: Encourage retail sales use at major intersections - as the focus of clustered commercial development. SP Linder continued by iterating an existing concern: the current inventory of Non-Retail Commercial designated vacant land in the City is 16 acres if there is a change of 2.92 acres (this site) to commercial that would leave 13 acres of land designated as Non-Retail Commercial.

The land use element of the General Plan currently designates 545 acres of land for commercial use. All of the acreage designated for commercial use is currently within the City's limits, SP Linder said. She then further reported that in inventory documented within the City, approximately 339 acres are currently developed, leaving approximately 206 acres vacant. SP Linder also advised Commissioners that approximately 10,515 sf of general commercial space is currently available. "The applicant says the Rezoning and General Plan re-designation would be compatible with the area, and that is true." "However," she said, "additional commercial development at this location would be inconsistent with the objectives of policies 9b and 9c (discussed prior).

SP Linder went on to give details of the reasons for Staff's recommendation to deny the request: general plan conflict and the current inventory.

Commissioner Lyle spoke on inconsistencies and asked if the applicant would have to make change in the plans relating to Office, Professional and the uses permitted therein.

Commissioner Acevedo spoke on the existing inventory and said that by subtracting some the things planned to happen at tonight's meeting (in changing properties

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downtown from General Commercial to Mixed Use) would decrease the known 206 acres.

Commissioner Escobar asked, regarding the 16 acres inventory of Non-Retail Commercial designated vacant land in the City, what the projected build out rate would be? SP Linder explained that there are no other Non-Retail Commercial properties developing at this time.

Commissioner Escobar spoke on a potential absorption rate for the 16 acres.

Commissioner Mueller reminded that General Plan polices discouraging placing strip commercial along Monterey goes back to ~~1993~~ 1990.

Commissioner Acevedo said that if the properties under discussion (directly west of the subject property) are General Commercial, and, "Aren't we looking to change the land use designation?" Commissioner Acevedo asked about specific properties in the area of the subject property, with SP Linder and PM Rowe responding in detail.

Chair Weston opened the public hearing.

Applicant Mike Achkar, 21425 Tollgate, advised the Commissioners he is with Morgan Hill Medical Center. Mr. Achkar spoke on the 'huge vacancy rate in office space throughout the Bay Area'. Mr. Achkar said he has been trying to lease out the space, but has not been successful as there is a 40% vacancy rate in office space and no medical facilities or personnel is interested in the site. Mr. Achkar said that the economy has suppressed opportunity for success as other developments have been approved on Butterfield for medical office space. Much of the medical office placement has been in retail areas recently, he said, and disagreed that his request would be in conflict with the land use element of General Plan, Mr. Achkar said his is not an isolated request, and explained that he wanted to have retail on the ground floor as he provided examples of other spaces in the area. "This is not against the General Plan. This was designed as a Class A project," he declared, rendering a sketch of a 'Tuscany village style' building. "This will be a beautiful complement to the downtown apartments and section 8 housing around the site. Because of the residents, there will be a market for retail establishments. This plan can fill the void and this is needed." Mr. Achkar went on to tell Commissioners he feels that downtown will eventually encompass this area. Mr. Achkar said that he plans parking on a 1: 204 patio and ~~said~~ he concluded by asking for approval of the request. Mr. Achkar assured Commissioners that he could keep the project viable as some tenants have shown interest, indicating that natural food stores would be good at this location. "Currently we can't get this type of store, but with the requested changes, we could," he said.

Commissioner Lyle asked the applicant if he had looked at the (new) list of items permitted in the Non-Retail Commercial land use designation? Mr. Achkar responded that he did not find those uses to be viable in a very small space.

Commissioner Benich asked if the applicant was saying that all the businesses would be under one roof (Tuscany style). Mr. Achkar again referenced his representation which showed business and offices on a 2<sup>nd</sup> floor with retail on the 1<sup>st</sup> floor.

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With no others present indicating a wish to speak to the matter, Chair Weston closed the public hearing.

Chair Weston conducted a modified straw poll regarding the request with the following results:

Commissioner Acevedo who said areas zoned general commercial can be changed to mixed use, giving examples of other properties which he said are not likely to become commercial such as the area by the railroad trestle and the mini storage along Monterey. He expressed a belief that the subject property could be changed to mixed use and residential compatible as he read from the General Plan goal 9d.

Commissioner Benich who said he liked the concept of the request, but would be against the project if it had a 'strip mall look'. He spoke in favor of the 'Tuscany Village' rendering presented. Chair Weston and Commissioner Mueller caution against this theory, saying the plan could change at the time of building plan submittal. Commissioner Benich continued by saying that development at Jasmine and Village Avante could make use of services provided here.

Commissioner Escobar expressed concerns with the 'adverse perception' contained in the staff report, adding he thinks the proposal is 'OK'.

Commissioner Mueller said he opposes this request, "As it could start having retail scattered all over. The General Plan is clearly against such development to the north."

Discussion ensued regarding the commercial areas in existence. Commissioner Mueller repeated, "There is no benefit of scattering commercial all along Monterey when the General Plan says to cluster."

Commissioner Lyle commented, "With the courthouse coming in, there may be more need for Attorneys offices, etc. With non-retail commercial uses there is a possibility of filling the site sooner; more so than last couple of years." Commissioner Lyle noted that the applicant presented an attractive rendering; however he expressed a wish to keep the site 'as is'.

Chair Weston said, "I would go more for the arguments Commissioner Mueller presented." He recalled working on this during the General Plan Update when Task Force members identified parts of town for Commercial Office zoning and 'this area was purposefully set, so I'm not in favor of having Commercial General here'.

Commissioner Mueller asked if the Commissioners should act on the Mitigated Negative Declaration first before deciding on one of the proposed resolutions? PM Rowe advised that the Commissioners could vote on the Mitigated Negative Declaration.

**COMMISSIONER ACEVEDO MOTIONED THAT THE MITIGATED NEGATIVE DECLARATION BE ADOPTED AS PRESENTED.**

**COMMISSIONER BENICH SECONDED THE MOTION, WHICH PASSED WITH THE FOLLOWING VOTE: AYES: ACEVEDO, BENICH, ESCOBAR, LYLE, MUELLER; NOES: WESTON; ABSTAIN: NONE; ABSENT: ENGLS.**

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**COMMISSIONER LYLE OFFERED RESOLUTION NO. 04-100a, RECOMMENDING DENIAL OF GENERAL PLAN AMENDMENT GPA-04-04: MONTEREY – MORGAN HILL MEDICAL TO AMEND THE LAND USE DESIGNATION FROM NON-RETAIL COMMERCIAL TO COMMERCIAL FOR A 2.93-ACRE PARCEL, LOCATED ON THE WEST SIDE OF MONTEREY RD., 300 FT. NORTH OF THE COSMO AVE./MONTEREY RD. INTERSECTION. COMMISSIONER BENICH MEULLER SECONDED THE MOTION. THE MOTION DID NOT PASS BY THE FOLLOWING VOTE: AYES: LYLE, MUELLER, WESTON; NOES: ACEVEDO, BENICH, ESCOBAR; ABSTAIN: NONE; ABSENT: ENGLES.**

Chair Weston instructed that the record show the motion for Resolution No. 04-100b had resulted in a 'non action vote'.

**COMMISSIONER MUELLER OFFERED RESOLUTION NO. 04-101a RECOMMENDING DENIAL OF A REQUEST TO AMEND THE ZONING DESIGNATION FROM CO, COMMERCIAL OFFICE TO CG, GENERAL COMMERCIAL FOR A 2.93-ACRE PARCEL, LOCATED ON THE WEST SIDE OF MONTEREY RD., 300 FT. NORTH OF THE COSMO AVE./MONTEREY RD. INTERSECTION. CHAIR WESTON SECONDED THE MOTION. THE MOTION DID NOT PASS BY THE FOLLOWING VOTE: AYES: LYLE, MUELLER, WESTON; NOES: ACEVEDO, BENICH, ESCOBAR; ABSTAIN: NONE; ABSENT: ENGLES.**

Chair Weston directed that the record show the motion for Resolution No. 04-101a had resulted in a 'non action vote'.

*Due to a potential conflict of interest because of property he owns in the downtown area, Chair Weston was excused at 7:32p.m. Vice-Chair Lyle assumed the gavel for this agenda item.*

**2) GPA-04-07/  
ZA-04-10: CITY  
OF M.H.-  
DOWNTOWN  
PLAN**

A request to recommend City Council adoption of the updated Morgan Hill Downtown Plan, Environmental Assessment for the Downtown Plan, General Plan Text and Land Use Map amendments and Zoning Text and Map amendments required to implement the proposed Morgan Hill Downtown Plan. A change in the general plan land use designation is proposed on APN(s): 726-04-001, 003, 006, 007, 008, 011 & 012 to change from Commercial to Mixed Use. A change in the general plan designation and zoning is proposed on APN(s): 726-15-001, 003 & 073 to change from Industrial with ML zoning to Multi-Family High with R-4 zoning. A change in the general plan and zoning designation is proposed on APN(s): 726-23-001 thru 015 to change from Commercial with CG zoning to Mixed Use with CC-R zoning. A Planned Unit Development zoning designation is also proposed to be applied to APN(s): 726-13-032-034 & 726-13-041-044 and 726-14-025, 026 & 031.

SP Linder reported that the City Council had granted conceptual approval of the Downtown Plan in 2003. She said that the CEQA review was completed and that program level mitigation measures were identified. In 2004, the Council approved an Ordinance adopting revised uses and site development standards for the Central

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Commercial-Residential (CC-R).

SP Linder reported to the Commissioners that several topics had been categorized for specific implementation tasks, and those categorized were: land use, circulation, parking, urban design, development assistance, and public improvement priorities.

SP Linder then turned attention several issues which had emerged during preparation of the environmental initial study and the Mitigated Negative Declaration\*:

### Traffic study

2 options for Monterey road – (1) narrow the roadway to one lane in either direction or (2) keep the road open, maintaining the present lane(s) status with traffic calming measures

SP Linder advised the Commissioners that the Council members had directed Planning and Public works Staff to concentrate efforts on option 2 and that efforts were being concentrated in that area at the present time.

*\*Note:* SP Linder informed the Commissioners that if the City Council chooses option 1 as a permanent lane reduction, additional CEQA review will be required along with other General Plan amendments.

SP Linder then turned attention to the issue of density as she explained that guidelines for *mixed use medium density* needed to be inserted the in General Plan text with ‘mixed use’ being defined as residential and retail/offices/services in the same building or adjacent location. SP Linder presented *Table 2* in the Staff report wherein the Urban Land Use Designations were broken into categories with detail of each provided.

Commissioner Acevedo questioned SP Linder as to “How do other municipalities look at mixed use residential? Are we different or ‘lock step’ with the other California communities?” SP Linder responded, “We are lock step,” as she elaborated on the matter.

SP Linder continued by explaining the concept whereby Staff has identified ‘opportunity sites’ which would contain higher densities:

The Sunsweet site (35-40 units/acre)

Dunne Ave. PUD (18-40 units/acre)

‘Granada Theater’ site (8-40 units/acre)

She explained the rationale of each of the sites, giving the exact locations and explaining the benefits (convenience to other facilities; attractiveness of mixed use placement) and priorities (higher density probability) of inclusion of each of the sites in the ‘opportunity’ category. SP Linder noted that Staff is advising that the Monterey Road corridor would provide ‘good use for high density: 35 – 40 units per acre’ which is higher than any other area in the City. As SP Linder explained the ‘opportunity sites’ concept, she advised Commissioners that these must be specified in the General Plan text.

SP Linder then provided that definition of ‘mixed use residential use’, and reminding that the Downtown plan also discusses high density multifamily at 40 units/acre. In addition, she said, consideration should be given regarding building height restrictions (35 feet for commercial; 40 feet for residential).

Commissioners discussed the following with Staff:

- potential for creating commercial mixed use, high density (would there be

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- potential for more units/acre)
- creation of (almost) spot zoning with the identification of Opportunity Sites (PM Rowe said that reason for creating high density Opportunity Sites is to encourage residential development)
- site development being 'very specific'
- possibility of extending the entire site all way to the Depot (PM Rowe advised this maneuver would be impractical to do as he explained that it might be good planning but impractical to achieve)
- questions about 'multifamily high' density
- determination was made that in *Resolution 04-106* where the density is addressed as 21-40 units per acre, 40 should be the upper limit
- the land use map presented as part of recommend changes were not for land use change, but including for zoning designated change
- when allocations are awarded, additional conditions could be imposed (Commissioners sent a strong message: allocations are not entitlements.)
- multi-family high-density R-4 zoning text amendment
- maintaining 6000 square feet minimums
- parking concerns

PM Rowe advised that as part of Downtown Plan utilization review, parking has been identified as 'underutilized'. He said that the Parking Management Plan now under study updates the 2002 plan, and there have not been significant changes. The reasons, he said, include accessible, pedestrian connections, lighting – and these issues are all part of what the management plan look for ways to achieve. PM Rowe explained that increased utilization recommendations are that parking be developed in areas where more efficient utilization could be had. Vice-Chair Lyle asked it would be better to have the parking management plan before continuing discussion? PM Rowe assured it not necessary at this time and the Commissioners could discuss the parking issues.

SP Linder said that, pending the outcome of the Downtown Parking Management Plan, Staff has currently classified the areas of underutilized parking and noted that there are two opportunities to lift restrictions making downtown parcels more usable. Another opportunity is presented in the residential area, she said, with the elimination of restriction on guest parking and further elimination of specific commercial parking requirements (change in Municipal Ordinance 18.50.25 required).

Commissioner Mueller said, "It appears that the Parking Management Plan outline [as presented] triggers development of areas for utilizing parking not now used for parking on Third or Fourth streets, but doesn't help solve problem on 1<sup>st</sup> street. So we need some way to address that issue sooner than later." PM Rowe explained what issues are being looked at for the Parking Management Study, emphasizing that 'business owners want

customers to be able to park in close proximity of businesses'.

Leading discussion, Commissioner Mueller questioned whether it is plausible to have restrictions now, then implement parking plan. Commissioner Escobar commented it is important to keep in mind how far customers and visitors have to walk to downtown business from the furthest available parking, which fostered discussion on 'where and why customers and residents are willing to park and walk' with time constraints being listed as a prime factor.

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Vice-Chair Lyle asked for clarification about guest parking and whether or not such benefit is required in the CC-R area? SP Linder explained ramifications of the guest parking component of the Plan.

Continuing discussion with the Commissioners, SP Linder advised that the Parking Study for the Downtown Plan did not include the area north of Main Street. She reflected a concern that if language was included regarding a portion of the CC-R for north of Main, difficulties might arise. SP Linder and PM Rowe advised that the area north of Main was not taken into account in this study.

Vice-Chair Lyle opened the public hearing.

Lesley Miles, 540 W. Dunne Ave., presented a letter to the Commissioners, then elaborated on the document as President of the Downtown Association and also as the owner of two properties in the Downtown area. Ms. Miles commented on the original Downtown Plan Task Force which finished documentation two years ago. "Since then," she said, "many changes have occurred ~~since then~~. In thinking that density a concern – and also with the 'opportunity sites' – that development will be limited to specific sites." Ms Miles suggested there is also opportunity to combine some sites and have higher density. "One of things we found is that downtowns appeal to people who are single and those looking for smaller units, which would increase density." She repeated that on Third street, the original Task Force recommendation had been followed and the result was 'true mixed use'. Ms. Miles said that with the introduction of the new Justice Center, the 'vital link' is Third Street to Downtown.

Ms. Miles then turned to an identified concern: limiting the potential height buildings, as she suggested that if the restriction was placed, it should be least 45 feet on the roof inclusive of the pitch. Ms. Miles explained as buildings are designed, ceilings downstairs and framing between floors actually suggest a 50-foot height limit if mechanical units are placed on the roof. Ms Miles gave further details about the difficulty limitations would be caused if further screening is needed at a later time. Ms. Miles further referenced the letter as she spoke on three-story mixed use development.

Commissioner Benich indicated agreement with Ms. Miles suggestion of higher building heights, saying it would pave the way for more creative facades.

Ms. Miles said, "I think one thing is tough in discussing heights of buildings: the flood limit in certain areas exhibits the need to start building the floor above grade also when we're dealing with density projects, or dealing with mechanical units on roof tops, the

more flexibility we have in the design, the better."

Commissioner Mueller expressed concern that the Downtown Report lacks one of the premises: 'critical mass', and asking, how much? He said there is need for 'critical mass' to be identified for commercial/retail.

Commissioner Escobar pondered two different opinions: there is need for residential density to make retail work; but the 'opposite is tougher' as he cited Santana Row as an example. "Here all the ground floors have retail on Third St., but if there is more retail on



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the side streets they may not have the opportunity for additional exposure.”

Commissioner Mueller asked, “How much retail do we need to add?”

Dan Craig, a Downtown manager, was in the audience (and Ms. Miles called on him for assistance with the data), said it (retail) could easily be doubled or tripled with good effect.

Commissioner Mueller then asked Mr. Craig how much that would mean in increase in square footage?

Mr. Craig responded it would be good to plan on increasing by 40,000 – 50,000 sq ft.

Ms. Miles described buildings as ‘not too deep, so there is a great deal of square footage currently available.

Commissioner Mueller commented that if 50,000 sf retail hasn’t been planned for addition, and that would diminish success, there is definitely a need to plan to add the 50,000 sf which can’t be identified yet.

Ms. Miles said there are a number of empty or underused lots in downtown area, telling of specific vacant lots, such as the one by the liquor store where there is plan to add 10,000 sf. She repeated that the Downtown Task Force Plan was too specific for specific sties.

Vice-Chair Lyle asked if the ground floor retail fronts on Monterey and Third streets?  
[Yes]

Rocké Garcia, 1000 Old Quarry Road, San Jose, told Commissioners he owns the Sunsweet site which was the location of their distribution warehouse, with products being shipped from that site throughout the world and explaining there had been a stubbed railroad spur to the site. Mr. Garcia gave details of the streets around the site, and informed of plans for creation of a ‘promenade walk” there, exclaiming that the believes that would ‘help make downtown walkable’.

Mr. Garcia made the following points to the Commissioners:

- 1) objection to a PUD on Sunsweet the site; he described this as the only property singled out on basis of standards. “I don’t want to take away the creative ability of planners or architects,” Mr. Garcia said, then went on to describe the
- 2) ‘Georgetown style’ of townhouses planned for the site. “This project is 25 units to the acre and sets up on Third St. retail near Monterey. In order to create this project well, it will not work with a PUD in a suburban area like Morgan Hill.”
- 3) explanation of the perception of Developers: there is community effort to provide an enhancement; to create housing in the upper price range going from 1,400 sf to 2,000 sf for buyers - not transient, not renters
- 4) referencing Ms. Miles’ request to consider having higher roofs on Third Street, Mr. Garcia said what people are looking for in homes will be available with his plan
- 5) the feeling that the 35 – 40 unit/acre range proposed by Planners for the

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Sunsweet site is restrictive

- 6) suggestion that the 'Plaza kitty corner from the Depot will be an attractive invitation to downtown
- 7) objection to the proposed change in zoning
- 8) request for 'guidelines rather than standards'
- 9) necessity for set aside competition
- 10) call for 'everyone to be on the same playing field'

Discussion ensued regarding the proposed density and various locations noted in the staff report. Whether Measure C criteria gives the best project or causes competition with R-2 in the downtown area. Also discussed were: (1) Does the Measure C criteria as set today, measure what can be expected for a 3 - 4 story downtown building and (2) potential changes in Measure C next spring, when there will be consideration of criteria change for quality.

Mr. Garcia told Commissioners, "I have been part of Measures P and C. There are excellent reasons why the allocation process is better for the community - but not always."

*It was noted that Chair Weston had stepped down from Commissioner discussion /decision-making; consequently there was consent to have him speak to the issue, with the record showing he was speaking as a private citizen and having no vote on the matter.*

Charles Weston, 540 W. Dunne, offered a different perspective on Sunsweet site. "I totally think the site plan for Sunsweet underutilizes the site. This site is a key site and should be more densely developed."

Mr. Weston referenced Page 11 of the Downtown Task Force Study as he offered suggestions of changes to parking on the south side of Third Street and 'conditional uses of residential units on 1<sup>st</sup> floor locations be eliminated as conditional use'.

Mr. Weston said he wants to retain remembrances of Sunsweet as an active part of the Community.

Mr. Weston cautioned on the necessity of having handicapped parking within reasonable distance. "If there is 'wholesale' parking in certain areas, and we ask people not to provide handicapped parking nearby businesses, that could be detrimental. There is need to keep in mind that handicapped and other parking close to the businesses is essential to

success. If we tend to put handicapped parking too far away, it is difficult to encourage use of downtown if it's not accessible."

Nancie Barker, 970 Vista Court, asked Commissioners to recommend leaving four lanes (two each direction) on Monterey as she cited emergency exit and congestion concerns. "If you make it difficult to get to downtown, residents and visitors will go around - and not downtown," Ms. Barker emphasized as she urged Commissioners and City decision makers to 'make it easy to go downtown'. Ms. Barker spoke on the planter boxes, urging retention as 'visitors like those and can use them for benches'.

Responding to a question, Ms. Barker said that as to improving 'site sight lines, they are

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good now and change is not necessary'. Ms. Barker continued by addressing dining on the street (in front of restaurants) saying, "That's only for a few hours a day, and certain times of the year. That is enjoyable and there is no reason to get rid of it." Regarding parking, Ms. Barker acknowledged that it is 'more and more difficult to park, especially during the evening hours near the bookstore'. She also referenced other ~~sights~~ sites where parking is of concern. Ms. Barker declared: We need parking in all areas. Just because there are parking vacancies three blocks away, ~~if~~ those spots are not convenient." She urged Commissioners to 'work within Measure C, the voters approved it, and we know what we now have. Stick to that. If that means building a smaller number of units per year, OK." Ms. Barker inquired if low market rate housing is included in the Downtown plan? [Yes]

Commissioner Benich assured Ms. Barker that the Commissioners and all City decision makers 'do intend to stay within the dictates of Measure C'. Commissioner Benich also asked for clarification on Ms. Barker's thoughts about the planter boxes along the sidewalk and the mound in the center of the street where trees are planted. Ms. Barker urged keeping both those amenities, saying, "Visitors remark 'how beautiful'." Ms. Barker said there is need to slow down traffic so if one needs to; they can see the shops, adding that installation of traffic signal would be beneficial.

Observing that there were no others present who indicated a wish to speak to the matter, Vice Chair Lyle closed the public hearing.

Commissioner Mueller began discussion by stating a 'big concern: getting to critical mass on commercial and retail and where put that square footage'. He said the General Plan did not spell out where the need could be expected and where to put that sector. "My concern is that we have not gone far enough to identify where to put it and identify implementation so it can happen," Commissioner Mueller stated. "I'm afraid people will get excited about residential development and leave consideration of commercial behind. The City needs to be the leader. There is a need to target. A number needs to be identified, then residential can follow what we have. We have an area plan with vision, but we need a specific plan. The downtown is not supported just by residents of downtown. I don't see that in the plan and am concerned about how and where to implement."

Commissioner Escobar concurred, saying he viewed the issue as two different perspectives: daytime use and those who were not there at night. We need a target plan if

we take the perspective of residential not supporting commercial in that area, or we need to broaden usage density in a supporting role.

Vice-Chair Lyle agreed, "There needs to be reason to go downtown. We anticipate 200 ~~residents~~ **more residences** downtown, so there needs to be more reasons to go there on the part of others. We all appear to be in agreement, but we don't know how to get there."

Commissioner Benich also agreed, adding 'general comments': "I'm disappointed in a number of areas where issues have been identified, but the mitigations are not strong enough," providing page 76 of the Downtown Plan as an example where schools and parks are mentioned, but we need to be given something to hang our hats on'.

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PM Rowe clarified differences in the Initial Study and the prepared/presented Downtown Plan, cautioning again that when the Specific Plan for downtown is finalized, there will be need for a larger mitigation study.

Commissioner Benich urged emphasis on public art in the downtown area. "I just want to make sure it (public art) doesn't fall through," he declared. Commissioner Escobar concurred, saying, "If public art is not mentioned, it gives the impression as not being regarded as important." Commissioner Acevedo called attention to page 61 of the Downtown Design Plan where public art is specifically addressed. PM Rowe reminded that public art program is part of the Architectural Review Board guidelines.

Commissioner Mueller noted a change from when the Study and the Task Force documents were prepared, that being the Court House design. He indicated that the entrance of that facility is not oriented toward Third St. The office of the DA, the Probation office and the Transfer Section all face Third street so that the resultant impact is: it will be hard to get people to walk to Third Street and there is the potential they won't walk if the City allows restaurants to go in on the Dunne Ave. site. People will walk across Diana and therefore not benefit from plans on Third St. If the county had designed the Court House to be more in proximity to Third St., it would have been better. Commissioner Mueller suggest that mixed use be restricted to offices and further that residential be placed on Diana rather than restaurants. He acknowledged that the problem existed of trying to make Third & Monterey more attractive.

Vice-Chair Lyle asked if the Downtown Plan is to be incorporated into the General Plan? Commissioner Mueller responded, "Yes, and that's been true for 20 years."

PM Rowe advised that what goes in General Plan is what is before commissioners this evening. PM Rowe also said that the document had been 'gone over page by page to get to (this) document this evening.

Discussion ensued regarding

- issues with spot zoning
- parking restrictions for one side of a street
- increasing the 'upper end of density allowances' from 18 units to 40
- parking issues
- need to consider the Mitigated Negative Declaration in looking at downtown plan
  
- the proposed Resolution No. 04-106 (building height issues) [PM Rowe reminded that when the Downtown Task Force discussed the matter, they were asked if go to four story building, but they didn't want to have hotels in the downtown. As to 3 stories, 35 feet could get a 'box effect' but if the height went to 45 feet, there could be variations of roof lines with resultant nicer appearances.]
- emphasis on 3 stories and 48 feet height
- noise and vibration tracks issues near the railroad tracks
- parks for residents in the downtown area
- specific traffic study issues
- providing ability to walking to CalTrain
- ABAG projected populations

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- consideration of narrowing Monterey road, with the assumptions not being
- traffic calming, but not including consideration of one lane (either direction) for Monterey road.

Noting the lack of detailed mitigation measure designations since this is not for a specific project; **COMMISSIONER MUELLER MOTIONED TO APPROVE THE MITIGATED NEGATIVE DECLARATION. COMMISSIONER ESCOBAR SECONDED THE MOTION WHICH CARRIED WITH THE FOLLOWING VOTE: AYES: ACEVEDO, BENICH, ESCOBAR, LYLE, MUELLER; NOES: NONE; ABSTAIN: NONE; ABSENT: ENGLES, WESTON.**

Commissioners discussed with Staff the provision of administrative adjustments whereby building heights in proposed Resolution No. 04-106, Exhibit a, could be modified. It was agreed that such course could occur, with Commissioner Escobar urging emphasis on consistency, which reinforce integrity. **BY CONSENSUS, THE COMMISSIONERS PRESENT – WITH ENGLES AND WESTON ABSENT - AGREED TO SET THE MAXIMUM BUILDING HEIGHT ON Third ST. AT 48 FEET.**

It was noted that the “35 dwelling units/acre” under the Multi-Family High designation should read 21-40.

Regarding density, PM Rowe advised that with many of the 2-story buildings in Downtown, the owners wanted to keep the two story and did not wish neighboring properties to go to ‘extremes’. Vice-Chair Lyle: suggested looking at higher density, providing for the change to 25 – 40 units/acre and continuing to look at 8 – 18 units/acre as building occurs.

**COMMISSIONER MUELLER OFFERED RESOLUTION NO. 04-106, RECOMMENDING APPROVAL OF THE GENERAL PLAN TEXT AMENDMENT TO INCORPORATE MIXED USE AS A RESIDENTIAL LAND USE DESIGNATION AND INCLUDE A MULTI-FAMILY HIGH RESIDENTIAL LAND USE DESIGNATION INTO THE GENERAL PLAN TEXT WITH THE FINDINGS AND CONDITIONS CONTAINED THEREIN AND WITH MODIFICATIONS TO EXHIBIT A AS FOLLOWS:**

**SECTION 2: Multi-family High: ....~~35~~ 21 – 40 dwelling units per acre**

**SECTION 4 (TABLE2) MULTI-FAMILY HIGH Maximum Building Height ~~45~~ 48 feet, with administrative ability to grant variance**

**Mixed Use ~~35/45~~ 48 feet, with administrative ability to grant variance**

**COMMISSIONER ESCOBAR SECONDED THE MOTION, WHICH PASSED**

**WITH THE AFFIRMATIVE VOTE OF ALL COMMISSIONERS PRESENT; ENGLES AND WESTON WERE ABSENT.**

Commissioner Mueller launched discussion regarding proposed Resolution No. 04-107, saying he knew the Commissioners should approve the Resolution, but expressing underlying concern about the Courthouse design. “I think there will be a PUD but I am concerned about uses on the Dunne Ave. site and the effect of the Courthouse on downtown,” he explained, asking Commissioners and Staff to add to the list of uses for the Dunne Ave. site. Discussion followed regarding the negative impact of the Courthouse design... Commissioner Mueller said, “The Downtown Task Force needs to

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look quickly at Resolution No. 04-107 and the General Plan use amendments. I think we can move Resolution No. 04-107 along to the Council, with concern for revisiting the uses at the time of proposed development, in view of the Courthouse design.”

**COMMISSIONER MUELLER OFFERED RESOLUTION NO. 04-107, RECOMMENDING APPROVAL OF GENERAL PLAN AMENDMENT APPLICATION GPA-04-07: CITY OF MORGAN HILL DOWNTOWN PLAN AMENDING THE LAND USE DESIGNATION ON THREE SEPARATE AREAS TOTALING 25 ACRES WITHIN THE DOWNTOWN AREA AS DEFINED IN THE DOWNTOWN PLAN. COMMISSIONER ESCOBAR PROVIDED THE SECOND TO THE MOTION, NOTING THE CONDITIONS AND FINDINGS CONTAINED WITHIN. THE MOTION PASSED WITH THE FOLLOWING VOTE: AYES: ACEVEDO, BENICH, ESCOBAR, LYLE, MUELLER; NOES: NONE; ABSTAIN: NONE; ABSENT: ENGLES, WESTON.**

PM Rowe responded to questions by addressing the issue of manufactured homes and telling why manufactured homes were not a provision for the high density zoning areas.

**COMMISSIONER MUELLER OFFERED RESOLUTION NO. 04-108 RECOMMENDING APPROVAL OF AN AMENDMENT TO THE MORGAN HILL MUNICIPAL CODE INCORPORATING CHAPTER 18.17 ESTABLISHING AN R-4 HIGH DENSITY RESIDENTIAL DISTRICT AND MODIFYING SECTION 18.17.050 ITEM G TO READ 48 FEET. COMMISSIONER BENICH SECONDED THE MOTION, WHICH PASSED WITH THE UNANIMOUS AFFIRMATIVE VOTE OF ALL COMMISSIONERS PRESENT; ENGLES AND WESTON WERE ABSENT.**

It was clarified that the R-4 district referenced CC-R parking changes to which the Commissioners agreed. Commissioner Mueller further clarified that the legal nonconforming uses which now exist would be ‘grandfathered’ and/or if there were ground floor additions, they could be considered under ‘exceptional use’. PM Rowe explained that any increase in size would increase the degree of non-conformity.

**COMMISSIONER MUELLER OFFERED RESOLUTION NO. 109, RECOMMENDING APPROVAL OF ZONING AMENDMENT APPLICATION, ZA-04-14: CITY OF MORGAN HILL DOWNTOWN PLAN, TO AMEND THE ZONING DESIGNATION ON THREE SEPARATE AREAS TOTALING 18.2 ACRES WITHIN THE DOWNTOWN AREA AS DEFINED IN THE DOWNTOWN PLAN, TOGETHER WITH THE FINDINGS AND CONDITIONS CONTAINED THEREIN, AND WITH THE FOLLOWING MODIFICATIONS: SECTION 4, 2: (ADD) *Ground level parking is not a requirement in the cc-r unless the matter is otherwise not covered in issuing permits.* SECTION 4, 3 ...residential density shall be ~~35-40~~ 25-40 dwelling... COMMISSIONER BENICH SECONDED THE MOTION, WHICH CARRIED WITH THE FOLLOWING VOTE: AYES: ACEVEDO, BENICH, ESCOBAR, LYLE, MUELLER; NOES: NONE; ABSTAIN: NONE; ABSENT: ENGLES, WESTON.**

Attention redirected to proposed Resolution No. 04-110, with PM Rowe noting the

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density would be 25-40 on page 2 exhibit A. He said the Task Force recommended the 'general approach' to development standards, without being specific as in the case of actual projects. Commissioner Mueller agreed this is critical to downtown development while expressing concern about putting standards on a property until Staff has had an opportunity to work thru details. Commissioner Mueller questioned if there was a way to bring back the standards when the list of uses is completed. PM Rowe explained that the Commissioners can modify standards to specific applications and advising that the City council has asked that standards be put into place to 'kick start downtown development'.

Discussion resulted regarding a possible addition to the objectives: language that the standards must be returned for specific project.

Vice-Chair Lyle and Commissioner Acevedo indicated beliefs that Third street is addressed there and further said resolution with the exhibits addresses the concerns of neighbors across the street. PM Rowe said it is important to have minimum expectations for development of Third street. Commissioner Escobar observed that if there are no residents on the 1<sup>st</sup> floors, this would help to solidify the 'critical mass' issue. Commissioner Mueller noted flexibility is important.

### **IN DISCUSSION OF PROPOSED RESOLUTION NO. 110, THERE WAS CONSENSUS TO MODIFY ITEMS IN EXHIBIT A AS FOLLOWS:**

**Objective:** (add – new sentence on end) *This is really the key to development in the downtown area, and development requests may need to be visited in order to establish accurate and acceptable standards.*

**Conditional uses for parcels fronting on Third Street:** *delete item B*

**Page 2 Development Density** ~~21-40~~ 25 – 40

**Development Standards for Third Street frontage** *Item E becomes item C with other items in list being re-alphabetized sequentially and modification to new item C (add) except for mid block parking between Third and Fourth streets. and modification to new item D: ~~continuous~~ façade consistent level of architectural design*

Discussion turned to the presentation made by Mr. Garcia when he told of the large walkway planned, with questions as to how that amenity might be affected? PM Rowe advised that a design would be possible with the wider sidewalk and the Staff working with Mr. Garcia and other developers to minimize heights of the buildings at the sidewalks. He also advised that there should be one street standard for all the streets.

**COMMISSIONER MUELLER OFFERED RESOLUTION NO. 04-110, RECOMMENDING APPROVAL TO AMEND THE ZONING ON SEVEN PARCELS FROM CENTRAL COMMERCIAL RESIDENTIAL, CC-R, TO PLANNED UNIT DEVELOPMENT, BRING THE PARCELS INTO CONFORMANCE WITH THE DOWNTOWN PLAN AND THE GENERAL PLAN, INCLUSIVE OF THE CHANGES SO NOTED BY CONSENSUS DURING DISCUSSION AND WITH THE FINDINGS AND CONDITIONS CONTAINED THEREIN. COMMISSIONER ESCOBAR SECONDED THE MOTION, CALLING ATTENTION TO PARKING LOT ACCESS ON THIRD STREET. THE MOTION PASSED WITH THE AFFIRMATIVE VOTE OF ALL COMMISSIONERS PRESENT; ENGLER AND WESTON WERE ABSENT.**

Commissioner Mueller question whether Resolution No. 111 (off-street parking) should

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be delayed until the parking management study has been completed? PM Rowe said the amendments to parking standards could be set aside until the study is complete.

**COMMISSIONERS MUELLER/ ESCOBAR MOTIONED TO TABLE RESOLUTION NO. 04-111 UNTIL THE PARKING MANAGEMENT STUDY HAS BEEN COMPLETED, WITH THE DETERMINATION TO BE MADE AT A (UNCERTAIN) FUTURE DATE AS TO WHETHER OR NOT THE PROPERTIES NORTH OF MAIN WOULD BE INCLUDED IN THE PARKING MANAGEMENT PLAN. THE MOTION WAS PASSED WITH THE FOLLOWING VOTE: AYES: ACEVEDO, BENICH, ESCOBAR, LYLE, MUELLER; NOES: NONE; ABSTAIN: NONE; ABSENT: ENGLES, WESTON.**

~~**COMMISSIONERS MUELLER/ ESCOBAR MOTIONED TO RECOMMEND TO THE CITY COUNCIL CONSIDERATION OF MORE CONSISTENT DENSITY WITH UP TO 60 DWELLINGS PER ACRE, AND FURTHER DIRECTING STAFF TO DEVISE A PLAN AND IMPLEMENTATION PROCEDURES FOR ADDING AT LEAST 50,000 SF MORE COMMERCIAL/RETAIL; THE PLAN SHALL IDENTIFY THE SOURCE AND LOCATION OF THE ADDITIONAL SQUARE FOOTAGE.**~~

**COMMISSIONERS MUELLER/ESCOBAR MOTIONED TO SEND A MESSAGE TO THE CITY COUNCIL INFORMING THEM OF THE PLANNING COMMISSIONERS WISH TO MOVE DISCUSSION TO THE COUNCIL ON THE TOPICS OF:**

- **CONSIDERATION OF MORE CONSISTENT DENSITY WITH UP TO 60 DWELLINGS PER ACRE**
- **REVIEW OF THE USES ALLOWED (INCLUDING MIXED USES FOR THE AREA OF DUNNE/BUTTERFIELD)**
- **DEVELOPMENT OF PLANS AND IMPLEMENTATION PROCEDURES FOR ADDING AT LEAST 50,000 SF ADDITIONAL COMMERCIAL/RETAIL**
- **IDENTIFY THE SOURCE AND LOCATION OF ADDITIONAL COMMERCIAL/RETAIL SQUARE FOOTAGE**

**3) GPA-04-08/  
ZA-04-20:  
TENNANT-  
HUANG**

Commissioner Acevedo referenced the General Plan Task Force study in 1999, asking if the downtown was included? PM Rowe said focus wasn't on critical mass, but what types of retail were viable.

**THE MOTION WAS CARRIED BY THE FOLLOWING VOTE: AYES: ACEVEDO, BENICH, ESCOBAR, LYLE, MUELLER; NOES: NONE; ABSTAIN: NONE; ABSENT: ENGLES, WESTON.**

*Chair Weston returned to the dais at 10:31 p.m. and resumed authority of the gavel.*

A proposal to amend the General Plan from Industrial to Commercial and amend the zoning from light industrial to administrative office in order to construct a medical/dental office building on 1.45 acre vacant parcel (APN 817-29-027) located at the northwest corner of Tennant Avenue and Caputo Drive. In addition, a proposal to amend the General Plan from Industrial to Commercial and amend the zoning from light industrial to administrative office for a 1.22 acre parcel with an existing 20,049 sq. ft. building



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located at the northeast corner of Tennant Avenue and Caputo Drive.

AP Plambaeck presented the staff report, providing the background of the request and advising the Commissioners that the proposed proposal for 16,000 sf medical office building would meet Goal 9 of the General Plan. He said that if the zoning change is approved, medical offices would be permitted in addition to the currently approved uses which include office use. The owner of the nearby Lincoln building has written to express opposition and asking that the property be zoned to CS (Service Commercial) with a claim that the use is incompatible with CO (Commercial Office). AP Plambaeck advised the current use of the building (including the warehouse) will become a *legal non-conforming use*.

Commissioner Benich asked clarification of the Third paragraph of the letter from Ms. Lincoln, owner of the nearby property. PM Rowe explained that the approved change in zoning will not restrict the ability to have tenants in building. The designation as a warehouse can be continued even though there is not enough parking - and is not inconsistent with the current use. PM Rowe explained 'legal non-conforming' use. He advised that almost any light industrial user could remodel the property but parking would have to change. Commissioner Benich continued that he was concerned that if the re-zone is approved, Ms. Lincoln may not get full use of her building. [Staff said this is not the case.]

Chair Weston noticed Ms. Lincoln's claim that she had not been asked/informed of the plan, and inquired as to how that might have happened. PM Rowe explained the need for consistency on both sides of Caputo Drive to avoid creating a commercial 'strip'.

Responding to a question from Commissioner Acevedo regarding the 'warehouse', PM Rowe explained the original and continuing uses of the property.

Chair Weston opened the public hearing.

With no one in the audience expressing a wish to speak to the matter, Chair Weston closed the public hearing.

**COMMISSIONERS MUELLER/ ESCOBAR MOTIONED TO APPROVE THE MITIGATED NEGATIVE DECLARATION AS PRESENTED. THE MOTION WAS PASSED WITH THE UNANIMOUS AFFIRMATIVE VOTE OF ALL COMMISSIONERS PRESENT; ENGLES WAS ABSENT.**

**COMMISSIONER MUELLER OFFERED RESOLUTION NO. 04-102, RECOMMENDING APPROVAL OF GENERAL PLAN AMENDMENT, GPA-04-08: TENANT-HUANG, TO AMEND THE LAND USE DESIGNATION FROM**

**INDUSTRIAL TO NON-RETAIL COMMERCIAL FOR TWO PARCELS TOTALING 2.67 ACRES LOCATED AT THE NORTHWEST AND NORTHEAST CORNERS OF TENNANT AVENUE AND CAPUTO DRIVE, TOGETHER WITH THE FINDINGS AND CONDITIONS CONTAINED THEREIN. COMMISSIONER ESCOBAR SECONDED THE MOTION, WHICH CARRIED WITH THE FOLLOWING VOTE: AYES: ACEVEDO, BENICH, ESCOBAR, LYLE, MUELLER, WESTON; NOES: NONE; ABSTAIN: NONE; ABSENT:**

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4) SD-04-14/  
DA-04-06:  
COCHRANE-  
BORELLO II

ENGLES.

COMMISSIONER MUELLER OFFERED RESOLUTION NO. 04-103, RECOMMENDING APPROVAL TO AMEND THE ZONING DESIGNATION FROM ML, LIGHT INDUSTRIAL, TO CO, ADMINISTRATIVE OFFICE, FOR TWO PARCELS TOTALING 2.67 ACRES LOCATED AT THE NORTHWEST AND NORTHEAST CORNER OF TENNANT AVENUE AND CAPUTO DRIVE, INCLUDING THE FINDINGS AND CONDITIONS CONTAINED WITHIN. COMMISSIONER ESCOBAR PRESENTED THE SECOND TO THE MOTION, WHICH PASSED WITH THE FOLLOWING VOTE: AYES: ACEVEDO, BENICH, ESCOBAR, LYLE, MUELLER, WESTON; NOES: NONE; ABSTAIN: NONE; ABSENT: ENGLES.

A request for approval a tentative subdivision map and a development agreement for 15 single-family homes on a 13.73 acre parcel located at Cochrane Road and St. Mark's Road in the R1-20,000 zoning district.

AP Plambaeck gave the staff report, calling attention to the fact that this property has been pre-zoned R1-20,000. AP Plambaeck advised that this project received a total of 15 building allotments in the 2003 small project RDCS competition.

SP Plambaeck then turned attention to the Standard Conditions (proposed Resolution No. 04-104), noting the following modifications:

page 6 (add) Section 3 *Notification shall be required for purchasers of lots 1, 7, 8, and (possibly) lot 9 that the presence large animals exists within a 100-foot radius of the existing property lines.*

and page 10 XII item D: ~~County of Santa Clara/State of California~~ County of Santa Clara and PG&E

and page 19

XX. Site Development: delete item B.

XXI Building Design: delete items A, B, C, D (item D was deleted following considerable discussion as to the appropriateness of this item in relation to residential dwellings; consequently, all of item XXI was deleted

and page 21

XIII Other Conditions: item 9 ~~Madrone Channel~~ Coyote Creek

Commissioners also discussed with Staff the proposed Resolution No. 04-105, with the following amendments to the dates noted:

III Final Map Submittal ~~March 30, 2005~~ June 30, 2005

IV Building Permit Submittal ~~June 30, 2005~~ September 30, 2005

V Building Permits ~~September 30, 2005~~ March 1, 2006

Commissioner Mueller made an inquiry about the Animal Ordinance as he recalled the provision dealing with large animals and the required 100-foot separation area. PM Rowe responded that if the space is less than a 200-foot separation, a special permit must be obtained. He further explained that the City Council has requested the Animal Ordinance be revisited. Notification of immediate property owners was discussed, as was the 'grandfathering of preexisting sites'. Commissioner Mueller suggested the following be added to the Standard Conditions: Page 6 (add) Section 3 *Notification shall be required*

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*for purchasers of lots 1, 7, 8, and (possibly) lot 9 that the presence of large animals exists within a 100-foot radius of the existing property lines.* Other Commissioners concurred.

Commissioner Acevedo asked if the property nearby with the horses was being proposed for annexation, as is the property under discussion.

Chair Weston opened the public hearing.

Dick Oliver, 285 Saratoga Ave., #105, Santa Clara, commented on the 100 feet set back and ascertained that there is not a need for a special exemption.

PM Rowe explained the language contained in the Municipal Code when responding to a question about the 100-foot set back.

Mr. Oliver asked Commissioners to pursue the Development Agreement, **Section M v d**, as he explained the upgrades which are installed in the dwellings as development occurs. Mr. Oliver said one of the upgrades is a reverse osmosis system in each of the kitchens with some problems with 'blue water' in some of the units. He explained that he and manufacturer's representatives are still doing research on a possible linkage of "blue water" problems in houses in Mission Ranch and Coyote Estates. The applicant requested the option to install a system equivalent to the reverse osmosis system. The Commission agreed.

Commissioner Lyle asked Mr. Oliver if the date changes Staff has recommended for proposed Resolution No. 04-105 are acceptable? Mr. Oliver responded by telling of the prior trouble he has experienced in submittal of building permits and said, "I agree with the date changes in anticipation of not coming back with other requests for changing the dates," as he explained this is a 'safety gap'.

Seeing no other persons in the audience who indicated a wish to speak to the matter, Chair Weston closed the public hearing.

**COMMISSIONER MUELLER OFFERED RESOLUTION NO. 04-104, APPROVING A 15-LOT SINGLE-FAMILY RESIDENTIAL SUBDIVISION AT THE SOUTHEAST CORNER OF COCHRANE ROAD AND ST. MARKS DRIVE ON A 13.66-ACRE LOT PREZONED R1-20,000, INCLUDING THE FINDINGS AND CONDITIONS CONTAINED THEREIN, AND WITH THE FOLLOWING MODIFICATIONS:**

page 10 XII item D: ~~County of Santa Clara/State of California~~ County of Santa Clara and PG&E;

page 19: XX. Site Development: delete item B; XXI Building Design: delete

items A, B, C, D (item D was deleted following considerable discussion as to the appropriateness of this item in relation to residential dwellings; consequently, all of item XXI was deleted;

page 21 XIII Other Conditions: item 9 ~~Madrone Channel~~ Coyote Creek;

page 21, Other Conditions: (add) Section 3 *Notification shall be required for purchasers of lots 1, 7, 8, and (possibly) lot 9 that the presence large animals exist within a 100-foot radius of the existing property lines.*

**COMMISSIONER BENICH SECONDED THE MOTION, WHICH PASSED**

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**WITH THE FOLLOWING VOTE: AYES: ACEVEDO, BENICH, ESCOBAR, LYLE, MUELLER, WESTON; NOES: NONE; ABSTAIN: NONE; ABSENT: ENGLS.**

**COMMISSIONER MUELLER OFFERED RESOLUTION NO. 04-105, RECOMMENDING APPROVAL OF A DEVELOPMENT AGREEMENT APPLICATION, DA-04-06: COCHRANE-BORELLO II, FOR APPLICATION MP-03-04: COCHRANE-BORELLO, WITH THE AGREED-UPON CHANGES ON PAGE 7, SECTION M-V-D OR EQUIVALENT AMENITY AND MODIFICATION TO THE DATES NOTED IN DISCUSSION OF EXHIBIT B, INCLUDING THE FINDINGS AND CONDITIONS CONTAINED THEREIN. COMMISSIONER BENICH OFFERED THE SECOND TO THE MOTION, WHICH CARRIED WITH THE UNANIMOUS AFFIRMATIVE VOTE OF ALL COMMISSIONERS PRESENT; ENGLS WAS ABSENT.**

**OTHER BUSINESS:**

**6) DOWNTOWN  
AREA BUILDING  
ALLOTMENT**

*Commissioner Lyle requested that item 6 be taken up at this point in the meeting explaining he has a potential conflict with item 5 as he lives in the area, and noting that agenda item 6 is of interest to several in the audience.*

A request to supplement the Residential Development Control System building allotment for the Downtown Area. Also requested is a recommendation whether to extend the competition for the Downtown Allotment into a second and third year, and whether to advance the filing deadline for the competition.

PM Rowe gave the staff report explaining that in October 27, 2004, the City Council discuss the possibility of increasing the Downtown Area set-aside to accommodate the anticipated projects that would compete next year. It was the consensus of the City Council at that meeting, PM Rowe said, that the Downtown set-aside should be increased, and thus the matter has been referred to the Planning Commission for recommendation. PM Rowe advised that in the discussion, members of the City Council had indicated that the 'sooner new housing is added to downtown, the better'. In making the decision to have more allocations available for the Downtown set-aside, the question for the Commissioners now becomes: "What is the best way to accomplish the goal of the City and should the final filing deadline be sooner than September 1?" PM Rowe clarified.

PM Rowe asked the Commissioner to focus attention to page 4 of the staff report and the numbers listed there for FY 2007-08 allocations. He also stressed the City's direction for the Affordable Housing category. PM Rowe advised that the City did not receive applications for FY 2006-07, so to a large extent the allocations that were put into other set-aside categories for FY 2007-08 could be separated into the application competition.

Alternatively, those 50 which will be available could be transferred to the downtown area thereby increasing the total in FY 2007-08, PM Rowe said. He cautioned that there is still the need to be consistent with general housing requirements and asked Commissioners to remember that allocations must be made up at some point in time.

PM Rowe continued by stating that the Commissioners could also look at adding 50 units

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to the open market in FY 2006-07, but reduce by 50 the open market category in 2007-08 and give those allocations to Downtown.

Chair Weston clarified that PM Rowe was 'not recommending eliminating affordable for a couple of the years'. PM Rowe said Staff was not suggesting that at this point in time, but suggesting taking the affordable and giving those (numbers) to Downtown. He further stated that a shift in the third year is another way of increasing numbers for affordable downtown. (PM Rowe clarified for the record this would mean that in FY 2007-08 affordable allocations would be down by 50 and allocations for the Downtown area would be increased by 50.)

Discussion ensued as to how best to switch the units around to ensure meeting the affordable category requirement. Commissioner Mueller suggested taking the affordable for this year if they can't be used; then in FY 2007-08, take 50 allocations from the open market category to Downtown or consider a combination of affordable *and* downtown categories. Commissioner Lyle said if one looked at numbers, the following is apparent: 10 vertical mixed use FY 2006-07; 15 for downtown with only 2 set-asides, explaining that if the Commissioners considered the set-asides as: 1 for 10 and 1 for 15, then they could have 25 in FY 2006-07, and then in FY 2007-08 there could be 10 for mixed-use. Then he explained the potential for 50 in FY 2009-10, adding this would be 225 by 2010 and said, "We should start making up at this point, but I'm not sure downtown can absorb 100 units *in a single year*," and declaring it would be better to make up for a little of the affordable category in FY 2007-08.

Commissioner Mueller rejoined the discussion, saying it would be possible to take 40 allocations in the downtown for FY 2007-08, then have 80 + 10 so the affordable would be at 60, with 10 in each of the next five years, and that would be several in a relatively short period of time.

PM Rowe reminded that the small vertical mixed use Downtown has a 10-each year Measure C requirement. Beyond that, he said, Measure C requires downtown set-aside allocations annually through FY 2009-10. PM Rowe said that the Staff recommendation for FY 2007-08 takes the currently available 40 for Downtown, so taking the 40 from 50 and add 10 to the affordable – if any of the affordable were not taken, it would be possible to put into the Downtown area. He reminded that on page 3 of the staff report, the open market 'drops' were discussed.

Commissioner Acevedo told the Commissioners of concerns about intensive construction activity in a small concentrated area which could result in congestion, then leading discussion on how that might affect the downtown. Commissioner Acevedo cited Huntington Beach as an example where such activity was seen as driving traffic away as residents and visitors were given the feeling of continuous upheaval. "If there is always construction, it is not good," Commissioner Acevedo declared, "big projects should be built out first."

Commissioner Lyle reminded that the competition for FY 2007-08 is a two-year competition. "So FY 2007-08 and FY 2008-09 present the possibility of allocations for Downtown being increased - extended to the 3<sup>rd</sup> year," Commissioner Lyle said, adding, "If the City Council wants to change the process, they could bump it up." Commissioner Mueller said that could work, but there is a need to consider how to absorb the activity'.

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Commissioner Lyle suggested such a process 'could result in a housing element change'.

Chair Weston opened the public hearing.

Dick Oliver, 275 Saratoga Ave., #105, Santa Clara, asked Commissioners not to forget about the General Plan requirement of 70% single-family and 30 % multi-family.

With no others present to address the matter, the public hearing was closed.

Commissioner Lyle expressed concern about the July 1 start date, indicating he would like to see start dates for all competitions at the same time. "We will have 10 or 11 projects, so the turn around time from submittal to award could be reduced," he said. Commissioner Mueller said that there is effort to 'pull-in' the start date, there would not be much time for applicants to respond, and adding that the scoring criteria needs to be tweaked.

Commissioner Lyle wondered if scoring and award could be completed by ~~March~~ *January or February*.

PM Rowe reasoned that an earlier date may be possible and suggesting that the September 1 submittal would be 'ok' and agreeing the criteria may need to be changed.

It was then discussed that such items as the '70 - 30 mix' may become an issue.

Commissioner Lyle said that by moving the dates, it would be difficult to maintain the required levels.

PM Rowe advised it may be necessary to update the affordable numbers in playing catch up. Commissioner Lyle said there is an advantage, as the City has some cushion going into this, continuing that in FY 2007-08, there will be need to be careful about on-going projects and ensuring finishing those projects.

Mr. Oliver cautioned to remember the R3 set aside.

Following the discussion, **THE COMMISSIONERS VOTED 6-0, WITH ENGLES ABSENT, TO RECOMMEND THE CITY COUNCIL SUPPLEMENT THE DOWNTOWN AREA BUILDING ALLOTMENT SET-ASIDE AS FOLLOWS:**

- **FY 2007-08: INCREASE FROM 40 TO 80 UNITS, PLUS 10 VERTICAL MIXED USE, FOR 90 TOTAL ALLOCATIONS.**
- **FY 2008-09: RESERVE 40 ALLOCATIONS, PLUS 10 VERTICAL MIXED USE, FOR 50 TOTAL.**
- **FY 2009-10: RESERVE 40 ALLOCATIONS, PLUS 10 VERTICAL MIXED USE, FOR 50 TOTAL.**
- **UP TO 25 ALLOCATIONS MAY BE AWARDED TO DOWNTOWN PROJECTS IN THE CURRENT COMPETITION FOR FY 2006-07. THEREFORE, THE TOTAL SET-ASIDE FROM 2006 THROUGH FY 2009-10 WOULD EQUAL 215 UNITS.**

5) ZAA-04-01:  
TILTON-  
GLENROCK

*Due to a potential conflict of interest, Commissioner Lyle was excused at 11:44 p.m.*

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Review of applicant requested changes to the precise development plan for the Capriano Subdivision on the south side of Tilton Avenue. Staff and the applicant are requesting direction from the Planning Commission on whether proposed changes to the RPD are consistent with prior conditions of approval.

PM Rowe presented the staff report, saying that Staff has held meetings with the applicant, Rocké Garcia and Bill McClintock of MH Engineering, regarding the requested changes to the precise development for the Capriano Subdivision on the south side of Tilton Avenue. PM Rowe called attention to page 2 of the Staff report, where six issues are listed which still require resolution, advising Commissioners that Staff is seeking direction to achieve that resolution.

Chair Weston opened the public hearing.

PM Rowe presented the concerns of the first issue: lot coverage percentage increase from 19.81 to 25.45% has the potential for reduction of 2-points in the Open Space category. However, in accordance with Municipal Ordinance 1679, the RDCS scores cannot **change be reduced**. PM Rowe explained that Mr. Garcia and Mr. McClintock have indicated that the project scored over the maximum 20 points in the category and that the two 'insurance points' would wipe out the point loss. However, PM Rowe continued, when Staff reviewed the Measure P scoring, it was discovered that the Commissioners awarded a half-point for a historical plaque which was required. As a result, Staff believes Mr. Garcia needs to reduce building coverage to avoid losing two points in the Open Space category.

Bill McClintock spoke to Commissioners as the project engineer, saying the latest submittal dealing with lot coverage is 23.99%, so it is still less than 25. "So we would like 1-point in the category, as the building coverage has not increased," Mr. McClintock told Commissioners. He went on to tell Commissioners there was a miscalculation in the original planning stage which was never discovered in amount of building coverage and describing that it is not practical at this stage to reduce building coverage on the lot. Mr. McClintock suggested a solution: accept the point discrepancy as it is; next, the next (scored) project was more than 15 points behind (this one) so the outcome would not be changed. "19 points still a high quality score," Mr. McClintock asserted. He urged the Commissioners to 'give more points for the plaque which has been installed already'. He went on to explain that the category (where the plaque was considered) was given two points in the competition where the requirement was made. "We could enhance the plaque (put in artwork, etc.) so if an additional ½ point is allowed to make up the ½ point in another category, we have 'maxed' in the Open Space category, so we can look to another category." He divulged, "The score is down in the Lot Layout category,"; and predicted, "When resolution is reached with the other issues (2 – 6), the Lot Layout category will increase in points."

Mr. Garcia told the Commissioners no one can figure out when the mistake occurred, "but the mistake was consistent and no one in the offices of MH Engineering, the Planning Department nor myself caught it."

Commissioners discussed various scenarios for the inadvertent calculation(s) and diverse processes whereby the quality of the project could be retained through jockeying the point system to achieve the desired results.

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Mr. Garcia and Mr. McClintock agreed that a mistake occurred, apologizing and stated “We’re real conscious of the history, and know that some developers have been put through ‘the wringer’, so we intend to ask to make things right in the points.”

Issue 2: PM Rowe said this item deals with set-backs and Staff’s opinion is that the project is not in compliance. Chair Weston clarified that this is not a new plan.

Mr. Garcia said it appears that Issues 2 and 6 are identical.

PM Rowe told Commissioners the 9,000 sf lots need to be along the park, and now the question is” should they be excluded from single-family detached and not part of an R2 area?

Mr. Garcia said that even if the lots are still included, the count would still be the same except for specifically identified lots. Responding to a question from Commissioner Mueller, Mr. Garcia said all side yard and set back required are being met. He went on to explain the attached units and how that attachment is attained.

Discussion ensued regarding the emergency Ordinance (1649) the City had enacted as a response to the perceived insurance crisis affecting developers.

Mr. Garcia ultimately pledged to take the plans for the project into the Planning Department for scaling.

Issue 3: PM Rowe said that greater than maximum separations were thought to have occurred, but this may have been corrected on revised plans when submitted. Mr. Garcia said that all the lots plans have been scrutinized and are ‘OK’

Issue 4: PM Rowe explained this item deals with the lots facing Tilton and perhaps other lots along the westerly edge of the subdivision, asking if this is ‘OK’ or if they need to be held to the 9,000 sf lot requirement.

Mr. Garcia said the ‘key is what the General Plan states’, then went on to explain that along the side where the creek goes through, and when you get over to Hale, ‘a hump’ exists. “So there is a retaining wall of five feet and we must drain the surface water to the north and the sewer to the south.”

Discussion followed on the requirements of the BMR placement. Mr. Garcia pledged placement of additional trees at the end of cul-de-sacs to alleviate any issue with placement of the BMR and locations of the 9,000 sf lots.

Commissioner Mueller urged him to do a ‘doubly good job on tree plantings so the BMRs can’t be seen from Hale Avenue. Commissioners and Mr. Garcia agreed that the idea of the requirement had been to buffer the higher density homes.

Issue 5: PM Rowe explained that in all other projects, the BMR plans carry through the entire project. In this instance, the BMRs in the R2 give us a garage face unit which is different from other phase units. This has made more of a difference between the BMRs and the smallest market rate. “Basically we have said that the BMRs should be carried throughout the project,” PM Rowe stated.



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Mr. Garcia said he has been using the same BMR project used throughout the Capriano project. PM Rowe responded that Staff reports the units are smaller now. He also said that the project has been consistent throughout, with a BMR right beside a large house (open market).

PM Rowe reiterated Staff appears to be seeing a much smaller unit than the market rate detached units.

Mr. Garcia insisted this BMR unit is same unit as used throughout the project.

Commissioner Mueller said two things are typical: the square footage of BMRs (about 1520 sf), they are 2 stories, with 2 bedrooms and 2 baths.

Mr. Garcia said if he built a BMR unit at the first of the project, the same, exact unit is being built now. "The only time there was a variation was for a single story BMR unit," Mr. Garcia insisted.

### ANNOUNCEMENTS:

Commissioners asked for a comparison of the BMR in terms of closest market rate. Mr. Garcia said there is a difference of 900 sf. Further responding to questions, Mr. Garcia said that in the R1 district, the smallest market rate being built is 3,000 sf, so the ratio of square feet is 2:1; and in the open market category, in R2 the smallest is 1,900-2,000 sf.

Mr. Garcia continued to claim that throughout the process, he has been building the same BMR units. Mr. Garcia said, "I want to work with Staff on that. I didn't understand their concerns at first," as he pledged to come into the Planning Department Offices to meet with Staff.

With no others present to address the matter, the public hearing was closed.

Chair Weston announced that as a result of the hearing, Mr. Garcia will meet with Staff to clarify issues.

PM Rowe advised Commissioners that the narrative packets and plans submitted for the Measure C competition were available for Commissioners to peruse, noting that there were a total of 24 applications. PM Rowe continued by reviewing the upcoming meetings in January when the applications will be presented as follows:

January 11 meeting: staff reports on the scoring recommendations *for micro, small, and vertical mixed-use projects*

January 7 supplemental data will be distributed as warranted PM Rowe explained packets to be sent to the Commissioners on January 7, 2005 and what contents can be expected.

PM Rowe reminded that at the January 18<sup>th</sup> and 25<sup>th</sup> meetings, Commission discussion and scoring will take place. PM Rowe advised that Staff scoring recommendations for the plans and narratives has been completed.

Turning to City Council actions, PM Rowe reported the Quarterly Report was accepted as recommended by the Commissioners.

### ADJOURNMENT:

At the December 1 meeting, the Council also dealt with the amendment to the Morgan Hill Ranch PUD. Action on this matter had been pending receipt of a report on a proposal

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for installation of an MRI facility by DePaul HealthCare. However, the DePaul personnel informed City Officials they would not be proceeding as quickly as planned with the reopening of the hospital. Therefore, the Council allowed Venture Corporation to have an MRI site as part of their PUD plan.

Commissioner Benich reminded he had asked for a Staff report on the progression of the accomplishments at the Safeway site on Tennant. Since it was not agendaized for this meeting, Commissioner Benich asked that the next meeting agenda have that discussion as the number one item. PM Rowe explained that SP Linder will be doing a final inspection with an extensive punch list of corrections and advised that report will be provided at the next meeting.

Determining that there was no further business to be addressed by the Commissioners in this meeting, Chair Weston adjourned the meeting at 12:40 a.m. on December 15, 2004, as all the Commissioners wished the public a 'Happy Holiday'.

### **MINUTES RECORDED AND PREPARED BY:**

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**JUDI H. JOHNSON, Minutes Clerk**